IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE R.BASANT

THURSDAY, THE 4TH OCTOBER 2007 / 12TH ASWINA 1929

Bail Appl..No. 5893 of 2007()

CC.495/2007 of J.M.F.C.,AMBALAPUZHA

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: PETITIONER/ACCUSED

SASI, S/O.PATHROSE, AGED 45 YEARS,
GOPIKA, MOONNUTHENGIL, PALLIPPATTU MURI,
TRIKKUNNAPUZHA.

BY ADV. SRI.M.R.SUDHEENDRAN

RESPONDENTS: COMPLAINANT

STATE OF KERALA, REPRESENTED BY THE
SUB INSPECTOR OF POLICE, AMBALAPUZHA,
THROUGH THE PUBLIC PROSECUTOR,
HIGH COURT OF KERALA, ERNAKULAM.

BY PUBLIC PROSECUTOR SRI.JAI GEORGE

THIS BAIL APPLICATION HAVING COME UP FOR ADMISSION ON 04/10/2007, THE COURT ON THE SAME DAY PASSED THE FOLLOWING:

R.BASANT, J

B.A.No.5893 of 2007

Dated this the 4th day of October, 2007

ORDER

The petitioner faces indictment in a prosecution under Section 420 I.P.C. The crime was registered on the basis of a private complaint filed before the learned Magistrate and referred to the police under Section 156(3) Cr.P.C.

2. The alleged incident had taken place in the year 2004. The petitioner was not available for trial. The case had to be transferred to the list of Long Pending Cases. At long last, the presence of the petitioner was secured. When the matter came up for trial, it was reported that the petitioner may abscond. The learned Magistrate thereupon straight away passed an order cancelling the bail and sending the petitioner to custody.

3. The petitioner came to this Court complaining about the unjustified course of cancellation of bail all on a sudden by the learned Magistrate. Interim directions were issued and the petitioner has since been enlarged on bail. The petitioner was directed to file an affidavit explaining all circumstances under which he lost his passport and the steps taken by him in the matter. An affidavit has been filed. To say the least, the affidavit is not satisfactory at all.

4. Be that as it may, I am satisfied that the petitioner can be permitted to continue on bail on appropriate further and strict conditions.

5. In the result, this application is allowed. The following further directions are issued.

i) The petitioner shall be permitted to continue on bail as per the interim order issued on 24.09.07 for a further period of 2 months;

ii) The petitioner shall forthwith file an affidavit before the learned Magistrate undertaking to produce his passport, if it is traced by him before the learned Magistrate, as soon as it is traced;

iii) The petitioner shall further undertake in such affidavit undertaking not to leave the Sessions division of Alappuzha until further orders;

iv) The petitioner shall execute a fresh bond for Rs.2 lakhs with two solvent sureties each for the like sum to the satisfaction of the learned Magistrate undertaking to comply with the above directions. The learned Magistrate must scrupulously ensure that the sureties offered are sufficient and solvent.

(R.BASANT, JUDGE)

rtr/-

R.BASANT, J

B.A.No.5893 of 2007

Dated this the 24th day of September, 2007

ORDER

Call for a report from the learned Magistrate about the circumstances and sequence of events which led to cancellation of the bail of the petitioner on 19.09.07 and his remand to custody. A copy

of the order passed on 19.09.07 shall also be forwarded to this Court.

2. There shall be an interim direction that the petitioner shall be released on bail on the following terms and conditions.

i) The petitioner executes a bond for Rs.1 lakh with two solvent sureties each for the like sum to the satisfaction of the learned Magistrate. The same sureties who had offered bail for the petitioner earlier shall be permitted to execute the bond as sureties;

ii) The petitioner shall surrender his passport before the learned Magistrate. If he does not have a passport, an affidavit to that effect shall be filed by the petitioner before the learned Magistrate.

Call on 01.10.07. The Registry shall ensure that the report of the learned Magistrate is received by then.

Hand over a copy of this order to the learned counsel for the petitioner.

(R.BASANT, JUDGE)

rtr/-